

1 **PATRICK W. KANG, ESQ.**

2 State Bar No.: 010381

3 **ERICA D. LOYD, ESQ.**

4 State Bar No.: 010922

5 **KANG & ASSOCIATES, PLLC.**

6 6480 W. Spring Mountain Road, Suite 1

7 Las Vegas, Nevada 89146

8 P: 702.333.4223

9 F: 702.507.1468

10 *Attorneys for Plaintiff*

11 *Kristina Reyes*

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 KRISTINA REYES, an Individual,) Case No.: 2:15-cv-00587

15 vs. Plaintiff,)

16)

17 HEALTHDATATINSIGHTS, INC., a Nevada)

18 Corporation; DOES 1 through 25, inclusive; and)

19 ROE CORPORATIONS 1 through 25, inclusive,)

20 Defendants.)

21) **COMPLAINT**

22) JURY TRIAL REQUESTED

23 COMES NOW, Plaintiff, KRISTINA REYES, by and through undersigned counsel, and
24 complains, alleges and avers as follows:

25 **JURISDICTION AND VENUE**

26 1. This is a civil complaint brought in United States District Court under Federal and State
27 statutes prohibiting discrimination in order to secure protection and redress deprivation of
28 rights under these laws.

- 1 2. Plaintiff's statutory claims arise under including but not limited to Title I and V of Americans
2 with Disabilities Act of 1990 ("ADA"), as amended, and codified in 42 U.S.C. §§ 12111–
3 12117. The jurisdiction of this Court is invoked under 28 U.S.C. § 1331.
- 4 3. This action also includes claims arising out of Nevada anti-discrimination statutes, N.R.S.
5 Section 613.310 et seq., which are joined pursuant to the doctrine of supplemental
6 jurisdiction and 28 U.S.C. § 1367(a). Plaintiff asserts she was treated disparately, subjected
7 to hostile work environment, and wrongfully terminated by Title I and V of Americans with
8 Disabilities Act of 1990 ("ADA").
- 9 4. Jurisdiction in this case is also proper pursuant to N.R.S. Section 14.065.
- 10 5. This Court has jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).
- 11 6. As Plaintiff's employer, during the relevant time period, Defendants,
12 HEALTHDATAINSIGHTS, INC., was a registered Nevada Corporation operating within the
13 County of Clark, State of Nevada; was engaged in an industry affecting commerce.
- 14 7. Plaintiff filed his Charges of Discrimination with the U.S. Equal Employment Opportunity
15 Commission ("EEOC").
- 16 8. Plaintiff received a copy of her "Right to Sue" notice (for charge #487-2014-00539) (**hereto**
17 attached as **Exhibit A: Charge of Discrimination**) dated June 26, 2014. In fulfillment of all
18 jurisdictional requirements for the filing of this suit, including filing of this lawsuit within 90
19 days of her receipt of the January 07, 2015 Right To Sue Notice (**hereto** attached as **Exhibit**
20 **B: Right to Sue Letter**).
- 21 9. Venue is proper in the District of Nevada pursuant to 28 U.S.C. Section 1331(b) because the
22 claimed unlawful employment practices were committed in and arose in the District of
23 Nevada.
24

PARTIES

10. Plaintiff, Kristina Reyes (hereinafter "Kristina"), at all times relevant to this Complaint, was a resident of Clark County, Nevada and at all times herein began her employment with HEALTHDATATINSIGHTS on June 25, 2012.

11. Defendant, HEALTHDATAINSIGHTS (hereinafter "HDI"), is an employer within the meaning of Title I and V of Americans with Disabilities Act of 1990 ("ADA"), as amended. Defendant, HDI was engaged in an industry affecting commerce or in the performance of service for commerce. HDI is licensed to do business in Clark County, Nevada, and the unlawful employment practices stated below were committed within the State of Nevada.

12. As an employer in Nevada, Defendants, HDI is required to comply with all state and federal statutes, which prohibit harassment, discrimination based on an individual's disability.

13. DOE Defendants I through X, inclusive, and ROE CORPORATIONS, I through X, inclusive, are persons, corporations or business entities who are or which may also be responsible for or who directed or assisted in the wrongful actions of the named Defendants. The true identities of the DOE Defendants and ROE CORPORATIONS are unknown to Plaintiff at this time. Plaintiff therefore alleges that DOES I-X, inclusive, and ROE CORPORATIONS I-X, inclusive, may be responsible in part for damages or injuries suffered by Plaintiff as a result of their own wrongful actions and/or those of their agents and/or employees. Plaintiff will seek leave to amend this Complaint as soon as the true identities of DOE and ROE Defendants I-X, inclusive, are revealed to Plaintiff.

14. At all times relevant hereto, Plaintiff was employed by Defendant HDI who operate in Clark County, Nevada.

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GENERAL ALLEGATIONS

15. On or around June 25, 2012, Plaintiff, Kristina began her employment with Defendant HDI as a QDA DME Analyst.

16. This matter involves Kristina, a dedicated employee, who found herself caught in an employment setting that was callous and cold to her perceived disabling condition.

17. Kristina proved to be an exemplary employee as well as an overall asset to Defendant HDI, for her two year tenure exemplified by Kristina receiving opportunity for a promotion.

18. However, during her employment, Defendant HDI subjected Kristina to an unfair and hostile work environment due to her perceived disabling condition.

19. Despite, her dedication, promotion, and commitment to her employer, HDI subjected Kristina to unlawful terms and condition of employment in violation of Title I and V of Americans with Disabilities Act of 1990 (“ADA”).

20. Namely, in or around October 2013, Kristina tore two ligaments in her left ankle which required her to use an orthopedic boot for six months.

21. Due to the length of time for her ankle to heal, DMV issued Kristina a disabled placard and she began to access the disabled parking at HDI offices.

22. In hope of promoting internally with HDI, in the same month Kristina took and passed the professional coder's exam.

23. Unfortunately, in December 26, 2013, Kristina sustained a concussion from an accident. In accordance with policies and procedures, Kristina called off from work on December 30, 2013 because she reported to the emergency for treatment and assessment for memory loss, speech issues and headaches associated with the concussion.

1 24. On Janauary16, 2014, Kristina applied for a CPC Coder position with HDI.

2

3 25. On January 22, 2014, Kristina had a phone interview for the CPC Coder position.

4

5 26. On January 23, 2014, upon a visit to her oral surgeon whom conducted an MRI on Kristina's

6 jaw which was injured in her accident in December, the oral surgeon revealed Kristina had a

7 fractured jaw that was healing incorrectly which required open joint surgery.

8

9 27. On January 24, 2014, received an offer for the promotion of CPC Coder from Robbie

10 Andrachak which Kristina accepted happily.

11

12 28. Subsequently, on the same day, Kristina informed her direct supervisor Sally Dietrich that

13 she would need oral surgery.

14

15 29. Kristina in excitement and anticipation of her promotion began buying books and

16 completing more studying of HMS, SNF and therapy coding.

17

18 30. Robbie Andrachack also scheduled Kristina to begin SNF training on the week following

19 January 31, 2014.

20

21 31. On January 31, 2014, Kristina was informed that surgery on her jaw was scheduled for

22 February 12, 2014. Kristina's attending physician gave her a note that stated she would

23 require an off duty work status February 10, 2014 through March 03, 2014.

24

25 32. February 03, 2014, Kristina immediately reported the surgery, doctor's note and letter

regarding the accident and injuries she sustained on December 26, 2013 as well as the

pending surgery. Kristina gave the documentation to both, Pamela Jensen, HDI HR Director,

HMS HR and her immediate supervisor Sally Dietrich.

33. Further, Kristina informed Robbie Andrachack about the pending surgery. In response

Robbie Andrachack stated that Kristina could complete the SNF training the second week of

March.

1 34. Kristina asked Robbie Andrachack if she was still attending the SNF training beginning on
2 Wednesday February 05, 2014. Robbie replied, "I now want to wait until you get back from
3 surgery to do the SNF training."

4 35. Further, Robbie Andrachack mentioned to Kristina that the other applicant had been hired
5 as CPC Coder for HDI.

6 36. On February 04, 2014, Kristina emailed regarding the documents relating to her salary
7 increase and promotion given Robbie Andrachack's offer. HDI personnel responded that it
8 was waiting on Andrea Benko, HDI CEO.

9 37. On February 07, 2014, Kristina cleaned out her desk based on the verbal representation she
10 would need to do so because she would be moving upstairs as a part of her new promotion.

12 38. On February 10, 2014, Kristina's medical leave began.

13 39. From February 14, 2014, two days after surgery, until February 21, 2014, Kristina requested
14 status regarding the promotion and her return to work at HDI.

16 40. On or about February 21, 2014, in response to Kristina's numerous requests for status
17 updates, HDI informed Kristina that she "was no longer being considered for the position,"
18 despite the verbal offer made to Kristina on January 24, 2014 and the position still being
19 listed as available on HDI's website.

20 41. HDI had no response when Kristina inquired into the reasoning for the revocation of the
21 offer and denial of the promotion.

22 42. HDI offered a variety of pre-textual excuses for their rejection and denial to Kristina. These
23 excuses ranged from "HDI is going in a different direction with the position" to "the position
24 is being put on hold."

1 43. However, the position remained open on websites until Kristina stated her concerns that
2 she was being discriminated against because of her medical leave and her disability as well
3 as the fact that the other woman had been hired for the same position subsequent to
4 Kristina informing HDI about her disability and short-term medical leave.

5 44. Subsequently, on February 27, 2014, Kristina's physician extended her medical leave until
6 March 30, 2014.

7 45. Thereafter, HDI informed Kristina that the promotion was revoked and denied by HDI CEO
8 because the CEO believed that Kristina lacked the proper credentials for the position as well
9 as the fact that the position was no longer available to any person.

10 46. Thus, Kristina was effectively terminated from HDI.

11 47. Kristina informed HDI as her belief she was being discriminated against due to her disability
12 and medical leave arising therefrom.

13 48. As the facts indicate, Kristina's termination was indeed a result of blatant disability
14 discrimination.

15 49. Kristina fervently believes that her termination and disparate treatment was due to her
16 disability as HDI deemed Kristina as a liability rather than the valuable asset which she truly
17 is for HDI and any employer.

18 50. Therefore, despite HDI's pre-textual reasons since the disability discrimination is readily
19 apparent, Defendant HDI's actions are in direct violation of the ADA and did cause injury to
20 Kristina for which HDI is culpable.

21
22
23 **FIRST CAUSE OF ACTION**
24 **(DISABILITY DISCRIMINATION - ADA)**

25 51. Plaintiff repleads and realleges and incorporates herein by reference paragraphs 1 through
50 as though fully set forth herein.

1 52. Defendant HDI knew or should have known of its obligation, pursuant to state and federal
2 statutes, to maintain work places free of disability discrimination.

3 53. Defendant HDI failed to take reasonably adequate steps to prevent discrimination based on
4 a disability in its workplace in Nevada by allowing the termination of Kristina despite her
5 requests for reasonable accommodations as well as her complaints regarding the
6 discrimination she endured by HDI.

7 54. Additionally Defendant HDI, in violation of the ADA terminated Kristina alleging "the
8 position is no longer available" and "HDI is moving in a different direction."

9 55. Upon information and belief Kristina's termination and revocation of the offered promotion
10 was based on her medical disabled condition and HDI's own perception of Kristina's
11 disabling condition.

12 56. Kristina has qualified disability under the ADA because Kristina has physical impairments
13 that substantially limits one or more of her major life activities.

15 57. Kristina requested a reasonable accommodation of medical leave as well as keeping the
16 promotion, her position or an equivalent position while she was on medical leave.

17 58. Defendant HDI ignored Kristina and effectively denied Kristina's accommodation requests
18 thus furthering the discrimination.

20 59. Defendant HDI ignored Kristina effectively denying Kristina's requests for a reasonable
21 accommodation. Moreover, Defendant has no justifiable basis but rather pre-textual
22 reasons for the denial as the accommodation would not cause an undue hardship when
23 other employees, disabled and non-disabled, are given the accommodation as well as hiring
another woman for the same position which was denied to Kristina.

1 60. Defendant HDI subjected HDI to disparate treatment by terminating the Plaintiff based on
2 its presumptions regarding HDI's disabling condition thereby singling out Kristina because
3 of her disability.

4 61. Defendant subjected Kristina to disparate treatment by enforcing special procedures and
5 denying and revoking employment benefits for the Plaintiff thereby singling out Kristina due
6 to her disabling condition.

7 62. Defendants further subjected Kristina to unscrupulous tactics by prohibiting Kristina to
8 return to work, and denying Plaintiff reasonable accommodations as well as promised
9 promotion, job reinstatement to her position or an equivalent position with an equivalent
10 rate of pay.

11 63. The blatant actions and numerous excuses demonstrate that defendant simply no longer
12 wanted to employ Kristina because of the potential liability.

13 64. Therefore, Defendant HDI, acting through and with its employees, discriminated illegally
14 against Kristina.

16 65. Kristina charges that, both, Defendant HDI, discriminated against her based on her disability
17 in that she was subjected to intentional acts and procedures in furtherance of the same.

18 66. Defendant's actions were intentional and done with willful disregard for the well-
19 established and well-known legal rights of Kristina.

21 67. Plaintiff has had to engage the services of attorneys to represent her in this matter and is
22 entitled to an award of reasonable attorney's fees.

23 68. Kristina endured and sustained actual damages including severe loss of income, loss of
24 advancement, loss grievous mental and emotional suffering, worry, fear, anguish, shock,
25 nervousness, stress and anxiety in an amount subject to proof at trial.

1 69. Defendant HDI's actions are intentional and done with willful disregard for the well-
2 established and well-known legal rights of Kristina.

3 70. Plaintiff has had to engage the services of attorneys to represent her in this matter and is
4 entitled to an award of reasonable attorney's fees.

5

6 **SECOND CAUSE OF ACTION**
7 **(NEGLIGENT HIRING, SUPERVISION, AND/OR TRAINING OF EMPLOYEES)**

8 71. Plaintiff repleads and realleges and incorporates herein by reference paragraphs 1 through
9 61 as though fully set forth herein.

10 72. Defendant HDI should have known of the propensity of its supervisors and its employees to
11 cause emotional and financial injury to employees and therefore has knowledge of their
12 potentially harmful effect upon employees, particularly employees who have defined
13 disabilities under the ADA.

14 73. Defendants HDI should be aware that supervisors and its employees are creating a situation,
15 which placed Kristina and other disabled persons in danger of having their rights violated.
16 Because of this awareness, Defendants HDI should take protective measures to stop its
17 employee's illegal conduct toward Kristina.

18 74. Defendant HDI know or should know that the conduct of its Human Resources
19 representatives, other supervisors, agents and employees might result in a violation of
20 employee's rights and Defendant HDI failed to institute sufficiently effective training
21 programs, which may have identified Human Resources representatives, supervisors and its
22 employees' illegal conduct and prevented further recurrences or may have allowed
23 employees to file complaints about it.

24 75. Defendant HDI failed to properly supervise and restrain its Human Resources
25 representatives, agents, supervisors and employees from their illegal conduct.

1 76. Defendant HDI received notice that its principals, assistant principals, other supervisors and
2 its employees are engaging in conduct that violated Kristina's rights when Kristina made
3 inquiry and complaints to HDI Human Resources.

4 77. Furthermore, HDI repetitively ignored Kristina's requests for accommodations and
5 complaints regarding the discrimination and retaliation.

6 78. Defendant HDI, by creating an atmosphere in which the ire of its Human Resources
7 representatives, agents, supervisors and employees was raised, knew that its agents,
8 supervisors and employees might cause emotional and financial injury to a fellow employee
9 and thereby authorizes and ratifies such unlawful and/or tortuous conduct toward Kristina.

10 79. As a result of each Human Resources representative's, supervisor's, employee's and agent's
11 conduct and based upon the responsibility of Defendant HDI, Kristina has suffered damages
12 by Defendant HDI and has suffered special, compensatory and punitive damages in an
13 amount subject to proof at trial.

14 80. Plaintiff has had to engage the services of attorneys to represent her in this matter and is
15 entitled to an award of reasonable attorney's fees.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays as follows:

1. For a trial by jury on appropriate issues;
2. For all employment-related losses subject to proof;
3. For a declaration that the acts and practices complained of herein are in violation of to Title I and V of Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 U.S.C. §§ 12111-12117, the Nevada Equal Employment Opportunity Act, NRS 633.310, et seq., the Nevada Unemployment Compensation Statues, NRS 612.010, et seq., specifically NRS 612.730;
4. For compensatory damages in a sum or value in excess of \$50,000.00, exclusive of interest and costs;
5. For punitive damages against Defendant HDI;
6. For prejudgment interest;
7. For reasonable attorney's fees and all costs incurred by Kristina Reyes herein; and
8. For such other and further relief as the Court shall deem just and proper.

JURY DEMAND

Plaintiff demands that all issues in this case be tried by a jury in accordance with the Seventh Amendment of the U.S. Constitution and Rule 38(b) of the Federal Rules of Civil Procedure.

Respectfully submitted this 31st day of March 2015.

KANG & ASSOCIATES, PLLC.

/s/ Erica D. Loyd, Esq.

PATRICK W. KANG, E

State Bar No.: 010381

ERICA D. LOYD, ESQ.

State Bar No.: 010922

3571 Red Rock Street

Las Vegas, Nevada

P: 702.333.4223

F: 702.507.1468

Attorneys for Plaintiff

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KANG & ASSOCIATES, PLLC.
6480 W SPRING MOUNTAIN ROAD, SUITE 1
LAS VEGAS, NV 89146

EXHIBIT A

CHARGE OF DISCRIMINATION

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

 FEPA
 EEOC

487-2014-00539

Nevada Equal Rights Commission

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Kristina Reyes

Home Phone (Incl. Area Code)

(702) 481-9292

Date of Birth

11-04-1981

Street Address

City, State and ZIP Code

119 Muddy Creek Ave., Las Vegas, NV 89123

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name HEALTH DATA INSIGHTS, INC	No. Employees, Members 500 or More	Phone No. (Include Area Code) (702) 243-8730
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Street Address 7501 Trinity Peak St. Suite 201, Las Vegas, NV 89128	City, State and ZIP Code
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Name	No. Employees, Members	Phone No. (Include Area Code)
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Street Address	City, State and ZIP Code
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DISCRIMINATION BASED ON (Check appropriate box(es).)	DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 02-21-2014 02-21-2014
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)	<input type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I. I began employment with Health Data Insights in about June 2012 and my current position is QDA DME Analyst. On or about January 17th 2014 I applied and expressed intent in a promotional position of CPC Coder. I was extended an offer for the CPC Coder position on or about January 24th, 2014. I went on FMLA leave for my disability on or about February 10th 2014. On or about February 21st 2014 the position offered was rescinded.

II. On or about February 21st 2014 I was informed by Sharonica (last name unknown), HMS Employee Relations, that the company was going in a different direction.

III. I believe I have been discriminated against due to my disability in violation of the Americans with Disabilities Act of 1990, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date
*6/20/14*Charging Party Signature
Kristina Reyes

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE
(month, day, year)

JUN 30 2014
EEOC/LVLO
INTAKE

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KANG & ASSOCIATES, PLLC.
6480 W SPRING MOUNTAIN ROAD, SUITE 1
LAS VEGAS, NV 89146

EXHIBIT B
RIGHT TO SUE LETTER

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Kristina Reyes
119 Muddy Creek Ave.
Las Vegas, NV 89123

From: Las Vegas Local Office
333 Las Vegas Blvd. South
Suite-8112
Las Vegas, NV 89101

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

487-2014-00539

EEOC Representative

Christopher Vincent,
Investigator

Telephone No.

(702) 388-5085

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

More than 180 days have passed since the filing of this charge.

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

The EEOC is terminating its processing of this charge.

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

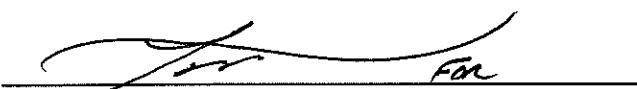
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

JAN 07 2015



Amy Burkholder,
Local Office Director

(Date Mailed)

Enclosures(s)

cc: **HEALTH DATA INSIGHTS, INC**
c/o **HMS BUSINESS SERVICES, INC.**
Sonja J. McGill, Esq.
5651 High Point Dr.
Irving, TX 75038

Patrick Kang, Esq.
LAW OFFICES OF KANG & ASSOCIATES
6480 W. Spring Mountain Rd., Ste. 1
Las Vegas, NV 89146